

CITY OF CORVALLIS
ADMINISTRATIVE POLICY MANUAL

POLICY AREA 3 - HUMAN RESOURCES MATTERS

AP 96-3.07 **Employee Behavior Complaint Response Policy**

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| <u>Adopted</u> | <u>January 1997</u> |
| Revised | September 1997 |
| Revised | September 1999 |
| Revised | September 2001 |
| Revised | December 2003 |
| Revised | February 2010 |

3.07.010 **Purpose**

To protect employee rights and the integrity and reputation of the City and its employees, while promptly addressing citizen concerns regarding the alleged behavior of City employees and facilitating corrective action where necessary.

3.07.020 **Background or Goals**

This Policy provides for timely investigation and response to citizen complaints regarding the behavior of City employees in the performance of their official duties. The Policy provides for communication with the employee, citizen, and department relating to such complaints.

3.07.030 **Definitions**

- 3.07.031 Citizen Complaint – A written complaint regarding the conduct of a City employee generated by anyone other than another City employee.
- 3.07.032 Criminal – Any action which, if proven, would constitute a violation of a Federal, State, or municipal law.

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- 3.07.033 Employee – Any regular, temporary, or seasonal employee of the City of Corvallis or any volunteer of the City.
- 3.07.034 Major Violation – A violation of City standards which, if proven, could result in the employee's suspension, demotion, or discharge for a first offense.
- 3.07.035 Minor Violation – A violation of City standards which, if proven, could result in discipline of an oral or written reprimand for a first offense.
- 3.07.036 Represented Employee – An employee of the City who is entitled to representation as a member of a recognized bargaining unit (AFSCME, CPOA, CRCCA, or IAFF).
- 3.07.037 Exempt Employee – An employee of the City who is exempt from representation by a collective bargaining unit.

3.07.040 Procedures

- 3.07.041 Departments other than Police shall utilize the following procedure; however, all departments are subject to the processes in Section 3.07.045:
- a. Citizen complaints, which if proven could result in some form of discipline for the employee involved, shall be sufficient to trigger the procedures in this Policy.
 - b. Citizen complaints regarding employee conduct that reflects discredit upon the City or conduct defined as a direct hindrance to the effective performance of City functions, shall also be sufficient to trigger the procedures in this Policy.
 - c. Citizen complaints shall be filed and documented on the form attached to this Policy or any other form which ensures complete information is documented for investigation. Complaints shall bear the name of the complainant and shall be signed by the complainant if the allegation constitutes a major violation. Complaints can be mailed, submitted in person, or faxed to either the Human Resources Division or the employee's department. Anonymous complaints or complaints through a representative of the complainant will be taken and investigated. However, if the anonymous complaint cannot be verified by other evidence, or the representative refuses to identify the complainant, the employee's response will be considered conclusive. All citizen complaints regarding an employee's behavior will be forwarded to the supervisor of the employee alleged to have engaged in a violation. If the employee is not known, the complaint will be given to the Department

Director. If the department is not known, the complaint will be given to the Human Resources Division.

- d. Citizen complaints regarding employee behavior investigated under this Policy fall into the following categories:
1. Behavior which, if proven, would constitute criminal act(s).
 2. Behavior which was consistent with City policy and procedures; therefore, no discipline would result, even if behavior was substantiated.
 3. Behavior which, if substantiated, could result in minor discipline of the employee for a first offense (oral or written reprimand).
 4. Behavior which, if substantiated, could result in major discipline for a first offense, up to and including discharge.

The supervisor, Department Director, or Human Resources Division will first make a determination as to which type of behavior has been alleged. Any supervisor or Director may at any time request assistance from the Human Resources Division to determine the appropriate category of behavior. Based upon this determination, the appropriate process identified in this Policy will be used to conduct the investigation and respond to the complaint. Where necessary due to the serious nature of the allegation(s), the supervisor or Department Director may take temporary action prior to the conclusion of the investigation to protect the public and/or City employees. This may include leave with or without pay or temporary reassignment of work duties or location.

The resolution of the complaint will be defined as one of the following:

EXONERATED – The investigation confirmed that the alleged behavior did occur but that it was consistent with City policy.

UNFOUNDED – The investigation demonstrated that the alleged actions did not occur or did not involve a City employee.

UNSUBSTANTIATED – The investigation did not present sufficient evidence to clearly prove or disprove the allegations.

SUSTAINED – The investigation does disclose sufficient evidence to clearly prove the allegations.

- e. All complaints filed under this Policy shall be responded to within 30 working days, whenever feasible. If final complaint resolution is not possible within the 30-day period, the complainant shall be notified within this time frame as to the estimated completion date of the investigation and report. Complaints investigated at the department level shall be responded to by the Department

Director. Other complaints shall be responded to by the Human Resources Division. Once the investigation is complete, a report shall be given to the complainant and the respondent employee (and the department where the investigation is conducted by the Human Resources Division), which shall summarize the investigatory process, the disposition of the complaint based upon the above categories, and whether action will be taken.

- f. The investigation will consist of at least interviewing the complainant, the respondent employee, the employee's supervisor, and any witnesses to the alleged behavior. As soon as possible following the filing of the complaint and the identification of the respondent or potential respondent(s), the investigator will notify him/her of the allegation. If the respondent employee is a represented employee and has a reasonable expectation that the investigation may result in disciplinary action, he or she may request to have representation at the interview, but the investigation shall not be unduly delayed awaiting a particular representative when other representatives are available. No one involved in the investigation, whether as a complainant, respondent, team member, or interviewee, should discuss the matter under investigation outside of the investigation until it is complete (with the exception of the employee's representative). Violation of this provision may subject the offending employee to disciplinary action. The City Manager shall be the final authority relative to disciplinary action required. Nothing in this Policy is intended to abridge any employee's Constitutional First Amendment right to free speech.
- g. Information given to the City in the course of an internal investigation is not confidential. However, except as required by Oregon Public Records Laws or the requirements of a thorough investigation, the City will only release information gathered in the course of an internal investigation on a "need to know" basis. This includes informing the respondent employee of the nature of the allegations that have been brought. Questions about personal safety or personal privacy should be discussed with the Human Resources Division, the City Attorney's Office, or the individual's personal attorney prior to providing information for the investigation (refer to Administrative Policy AP 96-3.09, Prevention of Violence in the Workplace).

- 3.07.042 If the supervisor, Department Director, or investigation team at any time determines that the nature of the complaint is such that, if substantiated, it could constitute a criminally prosecutable behavior, they shall not investigate the complaint further, but shall forward the complaint to the Corvallis Police Department, through the office of the Chief of Police.

- 3.07.043 If the supervisor or Department Director, in evaluating a complaint, determines that the alleged action by the employee did occur but was consistent with City policy (i.e., that the complaint is regarding the policy and not the employee), the employee will be deemed exonerated. The supervisor or Director shall contact the complainant to discuss the policy. The supervisor or Director, where possible, shall also discuss with the employee the nature of the complaint and reassure them that they acted in accordance with established policy. They will also discuss whether there were alternative methods for addressing the situation which may have resulted in a better outcome.
- 3.07.044 If, upon reviewing the complaint, the supervisor or Department Director determines that the nature of the complaint is such that, if substantiated, it could result in discipline of the employee by less than a demotion or suspension, then the supervisor or Director shall instigate an investigation into the complaint. Also, as is consistent with the Oregon Public Records Law and any relevant collective bargaining agreements, the citizen and the employee shall be provided a written summary of the investigation process and whether any action will be taken. At a minimum this investigation shall entail interviewing the complainant, the employee, the employee's supervisor, and any witnesses identified in the complaint; a review of the employee's personnel file, training records, etc.; and a review of any pertinent City or department operating procedures related to the incident. The supervisor or Director may also interview past supervisors and past or current co-workers or others as necessary to reach a conclusion to the investigation.
- 3.07.045 If the supervisor or Department Director determines that the nature of the complaint is such that, if substantiated, it could result in discipline of the employee by demotion, suspension, or termination, he or she shall notify the Human Resources Division. Human Resources shall then be responsible for forming an investigatory team comprised of staff from Human Resources, the City Attorney's Office, and the respondent employee's department. This team shall conduct a full investigation of the complaint, including interviewing anyone with potential knowledge of the behavior alleged; reviewing the employee's personnel file and training records; City and department policies; past practices; and interviewing the current supervisor and (where relevant) former supervisors and co-workers. This process shall also be used for any complaint against any employee that involves discrimination or racial profiling.
- 3.07.046 The results of the supervisor, Department Director, or team investigation shall be documented so as to summarize the alleged behavior, results of the

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investigation (what was found), and the resulting action taken by the City (what was done), including any disciplinary action taken. Consistent with the Oregon Public Records Law, the report will be sent to the respondent, the complainant, and the department by the investigatory body. The attached form, Part II, shall be used to document the date the report is sent and by whom.

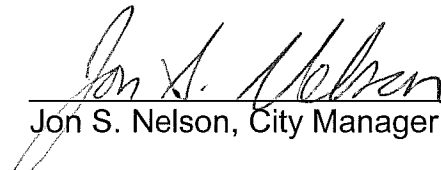
- 3.07.047 City employee complaints regarding the behavior of other City employees or volunteers are addressed in the following Administrative Policies: AP 96-3.09, Prevention of Violence in the Workplace; AP 96-3.10, Anti-Harassment Policy; AP 92-3.11, Discrimination; AP 96-3.12, Driving Standards; AP 95-3.06, Drug Free Workplace; and AP 92-3.08, Code of Ethics.

3.07.050 Review and Update

The Assistant City Manager shall review this Policy biennially in October.

Attachments

Review and Concur:



Jon S. Nelson, City Manager

4/30/10

Date



**City of Corvallis
Personnel Division
P. O. Box 1083
Corvallis, OR 97339-1083
(541) 766-6902 (phone)
(541) 766-6780 (fax)**

Filing Complaints Regarding the Behavior of a City Employee(s)

The City of Corvallis has established policies and procedures to receive, investigate, and act upon complaints by the public regarding the behavior of City employees. The purpose is to promptly address citizen concerns while protecting employee rights and protecting the integrity and reputation of the City and its employees.

If you wish to file such a complaint, a form is attached which is designed to assist the City in documenting information necessary for a thorough investigation. You do not have to use this form in order to file a complaint, but you will be asked to provide this same information in order to assist us in promptly and fairly conducting this investigation.

If you know the name of the employee(s) whose behavior is the source of the complaint, your complaint will be directed to that employee's supervisor. If you do not know the employee(s) by name, but know their department, the complaint will be directed to that department's Director. If you do not know the employee(s)' department, the complaint will be forwarded to the Human Resources Division for investigation. Complaints regarding a member of the Corvallis Police Department must be directed to the Police Department.

You are asked to sign the complaint to verify that the information is correct. The City of Corvallis will investigate anonymous complaints or complaints filed by a representative of the complainant. However, if the anonymous complaint cannot be verified by other evidence, or the representative refuses to identify the complainant, the employee's response will be considered conclusive.

The City will make every effort to respond to the complaint within 30 working days, whenever feasible. If resolution is not possible within 30 days, you will be notified of the estimated completion time.

Information given to the City in the course of an internal investigation is not confidential. However, except as required by the Oregon Public Records Laws or the requirements of a thorough investigation, the City will only release information on a "need to know" basis. This includes informing the respondent employee of the nature of the allegations that have been brought. If you have questions about personal safety or personal privacy, you should discuss these questions with the Human Resources Division, the City Attorney's Office, or your own attorney prior to providing the information.

PART ONE

Employee Behavior Complaint Response Form

Your Name: _____

Mailing Address: _____

Home Phone: _____ **Business Phone:** _____

Gender: _____ **Age:** _____

Where did this occur?: _____

Date Occurred: _____ **Time Occurred:** _____ **AM/PM**

Description of the Incident (What occurred): _____

Employee(s) Involved: _____

Witnesses, if any, or anyone else who may have knowledge of the incident:

Name: _____

Address and Phone: _____

Name: _____

Address and Phone: _____

Name: _____

Address and Phone: _____

Any other statement you wish to make regarding this complaint: _____

Information given to the City in the course of an internal investigation is not confidential. However, except as required by Oregon Public Records Laws, or the requirements of a thorough investigation, the City will only release information gathered in the course of an internal investigation on a "need to know" basis. This includes informing the respondent employee of the nature of the allegations that have been brought. If you have questions about personal safety or personal privacy, you should discuss these questions with the Human Resources Division, the City Attorney's Office, or your own attorney prior to providing the information.

Signed by: _____ **Date:** _____

Your signature verifies that the information on this form is correct.

Report Received by: _____

Date/Time: _____

Employee's Supervisor: _____

Referred to Department Director (Date): _____

Employee Behavior Complaint Response Policy Form

PART TWO

Summary of Investigation and Determination

The final summary and determination report is attached. Copies of the summary report and determination were sent to Complainant and Respondent (and Department where applicable) on this date: _____

By (Name and Department): _____
